

Appl. No. 10/713,305  
Resp. dated December 13, 2006  
Reply to Office Action dated October 13, 2006

IT20030012  
Page 6 of 8

### REMARKS

After entry of this Amendment claims 2, 8, 24-32, and 34-40 are pending in this application. Claim 24 has been amended to more particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In the Specification, paragraph [0009] has been deleted, as it is duplicative of paragraph [0008]. Reconsideration of the application as amended is requested.

In the Office Action dated October 13, 2006, claims 2, 8, 24-32 and 34-40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bashark, U.S. Patent No. 3,888, 269 in combination with Smith et al, U.S. Patent No. 5,586,567. The Examiner asserts that it would have been obvious to one skilled in the art at the time the invention was made to determine the degree of soiling of the rinse liquid by determining the turbidity values corresponding to the recirculation of the liquid in the lower and upper spray plane as disclosed in Smith in the measurement of turbidity disclosed in Bashark. It is submitted that the references, taken singly or in combination, fail to disclose the invention as recited in claims 2, 8, 24-32, and 34-40. Claim 24, which claims 2, 8, 25-32, and 34-40 include by dependency, recites a method of cleaning dishes in a dishwasher having an upper and lower spray plane. The method includes determining a degree of soiling of the rinsing liquid by determining the turbidity value corresponding to the recirculation of the rinsing liquid in the lower spray plane and the turbidity value corresponding to the recirculation of the rinsing liquid in the upper spray plane and setting at least one operating parameter of at least one of the rinse step and the cleaning step based on the determined degree of soiling.

The Bashark reference discloses a dishwasher having an automatic control with the capability of determining optimum treatment of dishes based on the condition of the dishes. *See Abstract*. The dishwasher includes a turbidity sensor for sensing the turbidity of the water charge or fill in the dishwashing chamber. *Col. 1, ll. 64-66 and col. 2, ll. 52-62*. The turbidity sensor, which is located, as shown in Fig. 3, near the sump portion 24 of the dishwasher chamber below the spray arm 22, senses the turbidity of the liquid of the water fill in the dish chamber collected above the sensor during a predetermined period of time and the dryness condition. *Col. 3, ll. 4-11, col. 5, ll. 44-49, Fig. 3 and Claims 1, 2, 4 and 7*. The sensed turbidity and the depth of a collected portion of the dish treating water in the receptacle, which is in communication with the dishwashing chamber, and the dryness condition are used by the control for the treatment of the dishes. *Col. 2, ll. 52-62*. If the

Appl. No. 10/713,305  
Resp. dated December 13, 2006  
Reply to Office Action dated October 13, 2006

IT20030012  
Page 7 of 8

detected turbidity is above a preselected value, then the rinse cycle will proceed with an additional rinse time. If the detected turbidity is below a preselected value, then the standard rinse cycle will proceed without an additional rinse time. *Col. 9, ll. 14-18 and 26-30.* However, Applicants can find no teaching or suggestion in Bashark of determining a degree of soiling of the rinsing liquid by determining the turbidity value corresponding to the recirculation of the rinsing liquid in the lower spray plane and the turbidity value corresponding to the recirculation of the rinsing liquid in the upper spray plane and setting at least one operating parameter of at least one of the rinse step and the cleaning step based on the determined degree of soiling as recited in claim 24.

The Smith reference is relevant only for its disclosure of a turbidity sensing mechanism used in a dishwasher. The sensing mechanism determines the turbidity of the fresh fluid added to the dishwasher and of the fluid at the conclusion of the various operating cycles of the dishwasher. *Col. 1, ll. 14-17.* Like Bashark, Applicants can find no teaching or suggestion in Smith of determining a degree of soiling of the rinsing liquid by determining the turbidity value corresponding to the recirculation of the rinsing liquid in the lower spray plane and the turbidity value corresponding to the recirculation of the rinsing liquid in the upper spray plane and setting at least one operating parameter of at least one of the rinse step and the cleaning step based on the determined degree of soiling as recited in claim 24. Therefore, the references cited, taken singly or in combination, fail to disclose all of the features recited in claim 24, from which claims 2, 8, 25-32, and 34-40 depend.

Reconsideration of this rejection is respectfully requested.

This after final amendment (1) does not raise new issues that would require further consideration and/or search; (2) does not raise the issue of new matter, since the proposed amendments have support in the originally filed application including the specification, claims and drawings; (3) does place the application in better form for appeal by materially reducing and/or simplifying the issues for appeal; and /or (4) does not present additional claims without canceling a corresponding number of finally rejected claims.

It is respectfully submitted that this Amendment traverses and overcomes all of the Examiner's objections and rejections to the application and places the application in suitable condition for allowance; notice of which is respectfully requested. Reconsideration

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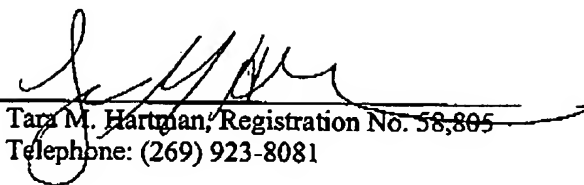
IT20030012  
Page 8 of 8

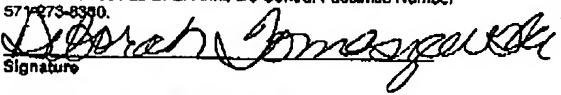
of the application as amended is requested.

Respectfully submitted,

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